



Posted: Friday, August 04, 2017

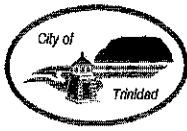
NOTICE AND CALL OF A REGULAR MEETING OF THE TRINIDAD CITY COUNCIL

The Trinidad City Council will hold a regular meeting on
WEDNESDAY, AUGUST 09, 2017 at 6:00 PM
In the Trinidad Town Hall, 409 Trinity Street, Trinidad, CA

CLOSED SESSION BEGINS AT 5:00PM

- I. **CALL TO ORDER**
- II. **PLEDGE OF ALLEGIANCE**
- III. **ADJOURN TO CLOSED SESSION**
 1. *Conference with legal counsel regarding active litigation. Tsurai Ancestral Society vs. City of Trinidad. Pursuant to California Government Code section 54956.9 (a)*
 2. *Public Employee Performance Evaluation for City Manager Pursuant to Government Code Section 54957*
- IV. **RECONVENE TO OPEN SESSION & CLOSED SESSION REPORT**
- V. **APPROVAL OF AGENDA**
- VI. **APPROVAL OF MINUTES** – *No minutes to approve*
- VII. **COUNCIL MEMBER REPORTS, COMMITTEE ASSIGNMENTS**
- VIII. **STAFF REPORTS**
- IX. **ITEMS FROM THE FLOOR**
(Three (3) minute limit per Speaker unless Council approves request for extended time.)
- X. **CONSENT AGENDA**
 1. Financial Status Reports for June 2017.
 2. Law Enforcement Activity Report for July
 3. Staff Activity Report
 4. Letter Authorizing removal of Alder Tree in Van Wycke St. Right-of-Way.
- XI. **DISCUSSION/ACTION AGENDA ITEMS**
 1. Discussion/Decision regarding Removal of John Hedrick from the Trinidad Planning Commission
 2. Discussion/Decision regarding Allocation of Capital Reserve Funds for priority ADA projects.
 3. Direction regarding Ordinance development relating to Marijuana
- XII. **FUTURE AGENDA ITEMS**
- XIII. **ADJOURNMENT**

(707) 677-0223 • 409 Trinity Street • P.O. Box 390 • Trinidad, CA 95570 • Fax (707) 677-3759



CONSENT AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 9 PAGES

1. Financial Status Reports for June 2017.

City of Trinidad
Statement of Revenues and Expenditures - GF Revenue
From 6/1/2017 Through 6/30/2017

	Current Month	Year to Date	Total Budget - Original	% of Budge
Revenue				
41010 PROPERTY TAX - SECURED	39,226.93	82,661.11	91,500.00	(9.66)%
41020 PROPERTY TAX - UNSECURED	236.86	3,401.25	3,300.00	3.07%
41030 PROPERTY TAX - PRIOR SECURED	0.00	0.00	50.00	100.00)%
41040 PROPERTY TAX-PRIOR UNSECURED	0.00	19.24	0.00	0.00%
41050 PROPERTY TAX - CURRENT SUPPL	479.74	1,240.16	600.00	106.69%
41060 PROPERTY TAX-PRIOR SUPPL	36.94	109.84	200.00	(45.08)%
41071 MOTOR VEHICLES	45.95	569.24	1,000.00	(43.08)%
41110 PROPERTY TAX EXEMPTION	396.07	961.89	1,300.00	(26.01)%
41130 PUBLIC SAFETY 1/2 CENT	473.85	1,375.52	1,600.00	(14.03)%
41140 PROPERTY TAX - DOCUMENTARY RE	201.85	3,608.56	2,000.00	80.43%
41190 PROPERTY TAX ADMINISTRATION FE	(1,132.00)	(2,264.00)	(1,500.00)	50.93%
41200 LAFCO Charge	0.00	(1,186.51)	(1,500.00)	(20.90)%
41210 IN-LIEU SALES & USE TAX	0.00	0.00	12,000.00	100.00)%
41220 IN LIEU VLF	14,233.00	28,466.00	20,000.00	42.33%
42000 SALES & USE TAX	36,953.27	207,005.47	220,000.00	(5.91)%
43000 TRANSIENT LODGING TAX	0.00	139,948.86	140,000.00	(0.04)%
43100 TRANSIENT LODGING TAX-TBID	0.00	0.00	(10,000.00)	100.00)%
46000 GRANT INCOME	20,000.00	20,000.00	100,000.00	(80.00)%
46100 Measure Z Grant Income	0.00	0.00	75,000.00	100.00)%
46700 Local Grants	1,735.43	1,735.43	0.00	0.00%
47310 VEHICLE LICENSE COLLECTION	0.00	164.45	0.00	0.00%
53010 COPY MACHINE FEE	0.00	57.74	30.00	92.47%
53020 INTEREST INCOME	1,521.12	6,297.36	5,000.00	25.95%
53090 OTHER MISCELLANEOUS INCOME	0.00	5,224.68	1,000.00	422.47%
54020 PLANNER- APPLICATION PROCESSIN	750.00	5,222.50	8,000.00	(34.72)%
54050 BLDG.INS-PAPPLICATION PROCESSI	510.47	8,288.08	9,000.00	(7.91)%
54100 ANIMAL LICENSE FEES	0.00	105.00	200.00	(47.50)%
54150 BUSINESS LICENSE TAX	150.00	7,998.00	7,500.00	6.64%
54170 VDU License Fee (Vacation Dwelling Unit)	0.00	1,500.00	9,000.00	(83.33)%
54300 ENCROACHMENT PERMIT FEES	50.00	352.00	400.00	(12.00)%
56400 RENT - VERIZON	2,199.86	25,891.90	23,500.00	10.18%
56500 RENT - HARBOR LEASE	0.00	0.00	5,135.00	100.00)%
56550 RENT - PG& E	0.00	9,521.03	9,500.00	0.22%
56650 RENT - SUDDENLINK	0.00	5,007.81	3,800.00	31.78%
56700 RENT - TOWN HALL	275.00	6,152.50	5,000.00	23.05%
59999 INTERDEPARTMENTAL TRANSFER INC	0.00	0.00	30,000.00	100.00)%
Total Revenue	118,344.34	569,435.11	772,615.00	(26.30)%

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
201 - GFAdmin
From 6/1/2017 Through 6/30/2017

	Current Month	Year to Date	Total Budget - Original	% of Budget
Expense				
60900 HONORARIUMS	200.00	2,750.00	3,500.00	21.43%
61000 EMPLOYEE GROSS WAGE	8,841.44	112,521.44	115,022.00	2.17%
61470 FRINGE BENEFITS	46.16	600.08	600.00	(0.01)%
65100 DEFERRED RETIREMENT	952.78	7,912.25	12,342.00	35.89%
65200 MEDICAL INSURANCE AND EXPENSE	1,084.01	12,875.16	14,801.00	13.01%
65250 Health Savings Program	10.73	146.96	0.00	0.00%
65300 WORKMEN'S COMP INSURANCE	0.00	21.45	3,451.00	99.38%
65500 EMPLOYEE MILEAGE REIMBURSEMENT	11.77	220.32	750.00	70.62%
65600 PAYROLL TAX	751.91	9,124.24	9,743.00	6.35%
65800 Grant Payroll Allocation	(176.89)	(4,259.41)	(6,000.00)	29.01%
68090 CRIME BOND	0.00	455.00	455.00	0.00%
68200 INSURANCE - LIABILITY	0.00	10,160.80	10,400.00	2.30%
68300 PROPERTY & CASUALTY	0.00	3,807.05	4,680.00	18.65%
71110 ATTORNEY-ADMINISTRATIVE TASKS	0.00	13,271.00	10,000.00	(32.71)%
71130 ATTORNEY-LITIGATION	0.00	8,855.50	10,000.00	11.45%
71160 ACCOUNTING	0.00	2,566.27	0.00	0.00%
71210 CITY ENGINEER-ADMIN. TASKS	0.00	11,274.15	2,000.00	(463.71)%
71310 CITY PLANNER-ADMIN. TASKS	4,553.05	54,686.47	45,000.00	(21.53)%
71410 BLDG INSPECTOR-ADMIN TASKS	585.01	7,910.13	4,500.00	(75.78)%
71420 BLDG INSPECTOR-PERMIT PROCESS	0.00	0.00	9,000.00	100.00%
71510 ACCOUNTANT-ADMIN TASKS	920.66	12,453.41	14,000.00	11.05%
71620 AUDITOR-FINANCIAL REPORTS	0.00	13,718.45	14,000.00	2.01%
72000 CHAMBER OF COMMERCE	0.00	16,205.81	16,200.00	(0.04)%
72100 BAD DEBTS	0.00	203.37	0.00	0.00%
75110 FINANCIAL ADVISOR/TECH SUPPORT	0.00	2,391.44	5,500.00	56.52%
75130 GARBAGE	0.00	141.21	0.00	0.00%
75160 LIBRARY RENT & LOCAL CONTRIB.	0.00	86.29	500.00	82.74%
75170 RENT	750.00	8,200.00	8,200.00	0.00%
75180 UTILITIES	934.61	10,733.44	9,000.00	(19.26)%
75190 DUES & MEMBERSHIP	425.71	550.71	500.00	(10.14)%
75200 MUNICIPAL/UPDATE EXPENSE	0.00	4,993.65	4,500.00	(10.97)%
75220 OFFICE SUPPLIES & EXPENSE	1,820.17	7,984.03	5,500.00	(45.16)%
75240 BANK CHARGES	0.00	20.00	250.00	92.00%
75300 CONTRACTED SERVICES	0.00	0.00	2,500.00	100.00%
75990 MISCELLANEOUS EXPENSE	0.00	263.89	500.00	47.22%
76110 TELEPHONE	(120.14)	1,516.13	2,000.00	24.19%
76130 CABLE & INTERNET SERVICE	314.68	3,567.05	3,300.00	(8.09)%
76150 TRAVEL	0.00	0.00	1,500.00	100.00%
78160 BUILDING REPAIRS & MAINTENANCE	0.00	124.00	0.00	0.00%
78170 SECURITY SYSTEM	0.00	73.50	1,500.00	95.10%
78190 MATERIALS, SUPPLIES & EQUIPMEN	0.00	73.65	1,500.00	95.09%
Total Expense	21,905.66	338,198.89	341,194.00	0.88%

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
301 - Police
From 6/1/2017 Through 6/30/2017

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
	Expense				
61000	EMPLOYEE GROSS WAGE	552.22	7,280.02	5,330.00	(36.59)%
65100	DEFERRED RETIREMENT	34.44	154.98	222.00	30.19%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	160.00	100.00%
65600	PAYROLL TAX	45.06	563.38	425.00	(32.56)%
75170	RENT	750.00	8,200.00	8,200.00	0.00%
75180	UTILITIES	160.98	2,270.33	2,500.00	9.19%
75220	OFFICE SUPPLIES & EXPENSE	0.00	989.16	1,000.00	1.08%
75300	CONTRACTED SERVICES	0.00	48,608.50	226,500.00	78.54%
75350	ANIMAL CONTROL	113.00	1,356.00	1,500.00	9.60%
75990	MISCELLANEOUS EXPENSE	0.00	0.00	500.00	100.00%
76110	TELEPHONE	92.01	1,598.60	1,200.00	(33.22)%
78170	SECURITY SYSTEM	0.00	378.00	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	377.44	0.00	0.00%
	Total Expense	<u>1,747.71</u>	<u>71,776.41</u>	<u>247,537.00</u>	<u>71.00%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
401 - Fire
From 6/1/2017 Through 6/30/2017

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
60900	HONORARIUMS	150.00	1,800.00	1,800.00	0.00%
71210	CITY ENGINEER-ADMIN. TASKS	0.00	1,996.00	0.00	0.00%
75180	UTILITIES	38.48	466.59	1,150.00	59.43%
75190	DUES & MEMBERSHIP	0.00	190.00	100.00	(90.00)%
75280	TRAINING / EDUCATION	200.00	400.00	400.00	0.00%
75300	CONTRACTED SERVICES	0.00	3,144.00	5,000.00	37.12%
76110	TELEPHONE	92.82	767.83	1,000.00	23.22%
76140	RADIO & DISPATCH	0.00	0.00	900.00	100.00%
78120	STREET LIGHTING	0.00	47.32	0.00	0.00%
78140	VEHICLE FUEL & OIL	0.00	144.38	350.00	58.75%
78150	VEHICLE REPAIRS	0.00	407.50	2,500.00	83.70%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	202.25	1,000.00	79.78%
78190	MATERIALS, SUPPLIES & EQUIPMEN	32.28	896.93	2,500.00	64.12%
78200	EQUIPMENT REPAIRS & MAINTENANC	0.00	415.95	400.00	(3.99)%
	Total Expense	<u>513.58</u>	<u>10,878.75</u>	<u>17,100.00</u>	<u>36.38%</u>

City of Trinidad
Statement of Revenues and Expenditures - GF Expense
501 - PW (Public Works)
From 6/1/2017 Through 6/30/2017

		<u>Current Month</u>	<u>Year to Date</u>	<u>Total Budget - Original</u>	<u>% of Budget</u>
Expense					
61000	EMPLOYEE GROSS WAGE	5,735.94	71,608.00	71,561.24	(0.07)%
61250	OVERTIME	0.00	0.00	500.00	100.00%
65100	DEFERRED RETIREMENT	688.88	8,247.10	8,891.13	7.24%
65200	MEDICAL INSURANCE AND EXPENSE	2,112.35	24,882.49	29,514.02	15.69%
65250	Health Savings Program	17.65	242.20	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	2,222.78	100.00%
65600	PAYROLL TAX	491.84	6,104.31	6,348.27	3.84%
65800	Grant Payroll Allocation	(5,439.06)	(31,858.68)	(22,500.00)	(41.59)%
71210	CITY ENGINEER-ADMIN. TASKS	2,816.01	19,149.01	6,000.00	(219.15)%
71250	CITY ENGINEER - PROJECT FEES	0.00	0.00	4,000.00	100.00%
75180	UTILITIES	0.00	106.51	0.00	0.00%
75200	MUNICIPAL/UPDATE EXPENSE	0.00	0.00	2,300.00	100.00%
75220	OFFICE SUPPLIES & EXPENSE	0.00	392.22	0.00	0.00%
75300	CONTRACTED SERVICES	12,894.37	57,996.95	24,000.00	(141.65)%
75370	UNIFORMS/PERSONAL EQUIP.	0.00	0.00	500.00	100.00%
76150	TRAVEL	0.00	55.00	0.00	0.00%
78100	STREET MAINT/REPAIR/SANITATION	0.00	2,285.11	7,500.00	69.53%
78120	STREET LIGHTING	366.83	4,566.26	4,500.00	(1.47)%
78130	TRAIL MAINTENANCE	0.00	337.07	3,500.00	90.37%
78140	VEHICLE FUEL & OIL	345.19	3,809.35	4,000.00	4.77%
78150	VEHICLE REPAIRS	0.00	1,754.66	2,500.00	29.81%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	6,403.32	4,000.00	(60.08)%
78170	SECURITY SYSTEM	0.00	487.50	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	127.64	9,780.16	5,000.00	(95.60)%
78200	EQUIPMENT REPAIRS & MAINTENANC	0.00	0.00	1,000.00	100.00%
79150	WATER LINE REPAIR	0.00	1,311.45	0.00	0.00%
	Total Expense	<u>20,157.64</u>	<u>187,659.99</u>	<u>165,337.44</u>	<u>(13.50)%</u>

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
204 - IWM
From 6/1/2017 Through 6/30/2017

		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue					
46000	GRANT INCOME	(5,000.00)	0.00	0.00	0.00%
47650	RECYCLING REVENUE	687.50	11,341.60	7,000.00	62.02%
56150	FRANCHISE FEES	0.00	0.00	6,000.00	(100.00)%
	Total Revenue	(4,312.50)	11,341.60	13,000.00	(12.76)%
Expense					
61000	EMPLOYEE GROSS WAGE	879.62	10,922.34	10,605.00	(2.99)%
65100	DEFERRED RETIREMENT	105.54	1,310.53	1,359.00	3.57%
65200	MEDICAL INSURANCE AND EXPENSE	408.16	4,801.93	5,825.00	17.56%
65250	Health Savings Program	3.50	47.60	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	340.00	100.00%
65600	PAYROLL TAX	75.36	935.20	971.00	3.69%
75120	WASTE RECYCLING PICKUP/DISPOSA	0.00	0.00	500.00	100.00%
75130	GARBAGE	0.00	11.60	0.00	0.00%
78100	STREET MAINT/REPAIR/SANITATION	1,006.34	1,023.14	0.00	0.00%
78190	MATERIALS, SUPPLIES & EQUIPMEN	904.63	1,803.88	1,200.00	(50.32)%
	Total Expense	3,383.15	20,856.22	20,800.00	(0.27)%
	Net Income	(7,695.65)	(9,514.62)	(7,800.00)	21.98%

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
601 - Water
From 6/1/2017 Through 6/30/2017

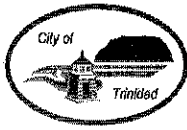
		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Revenue					
42000	SALES & USE TAX	0.00	9,200.00	0.00	0.00%
53020	INTEREST INCOME	0.00	0.00	1,500.00	(100.00)%
53090	OTHER MISCELLANEOUS INCOME	0.00	962.61	2,500.00	(61.50)%
57100	WATER SALES	26,051.59	310,558.24	305,000.00	1.82%
57200	Water Sales - Wholesale	180.00	5,940.00	3,000.00	98.00%
57300	NEW WATER HOOK UPS	0.00	0.00	1,000.00	(100.00)%
57500	WATER A/R PENALTIES	801.56	1,688.85	1,000.00	68.89%
	Total Revenue	27,033.15	328,349.70	314,000.00	4.57%
Expense					
61000	EMPLOYEE GROSS WAGE	7,700.34	94,723.18	98,044.00	3.39%
61250	OVERTIME	0.00	0.00	500.00	100.00%
65100	DEFERRED RETIREMENT	908.56	10,832.36	11,766.00	7.94%
65200	MEDICAL INSURANCE AND EXPENSE	3,051.35	36,053.34	40,587.00	11.17%
65250	Health Savings Program	23.77	324.04	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	11.55	2,994.00	99.61%
65600	PAYROLL TAX	658.94	8,181.91	8,534.00	4.13%
65800	Grant Payroll Allocation	0.00	(1,932.17)	0.00	0.00%
68090	CRIME BOND	0.00	245.00	0.00	0.00%
68200	INSURANCE - LIABILITY	0.00	5,471.20	6,125.00	10.67%
68300	PROPERTY & CASUALTY	0.00	2,049.95	2,275.00	9.89%
71110	ATTORNEY-ADMINISTRATIVE TASKS	0.00	0.00	1,000.00	100.00%
71160	ACCOUNTING	0.00	1,381.85	0.00	0.00%
71210	CITY ENGINEER-ADMIN. TASKS	0.00	0.00	4,000.00	100.00%
71510	ACCOUNTANT-ADMIN TASKS	495.74	6,273.29	6,500.00	3.49%
71620	AUDITOR-FINANCIAL REPORTS	0.00	6,615.00	7,000.00	5.50%
72100	BAD DEBTS	0.00	221.77	350.00	36.64%
75180	UTILITIES	1,102.70	12,570.63	11,000.00	(14.28)%
75190	DUES & MEMBERSHIP	480.00	829.64	1,000.00	17.04%
75210	LICENSES & FEES	0.00	90.00	0.00	0.00%
75220	OFFICE SUPPLIES & EXPENSE	0.00	2,983.70	3,000.00	0.54%
75240	BANK CHARGES	0.00	20.00	0.00	0.00%
75280	TRAINING / EDUCATION	0.00	245.00	500.00	51.00%
75300	CONTRACTED SERVICES	0.00	0.00	25,000.00	100.00%
76110	TELEPHONE	95.52	1,519.79	1,800.00	15.57%
76130	CABLE & INTERNET SERVICE	61.95	764.66	750.00	(1.95)%
76160	LICENSES & FEES	0.00	2,813.80	2,750.00	(2.32)%
78120	STREET LIGHTING	0.00	0.00	1,600.00	100.00%
78140	VEHICLE FUEL & OIL	94.32	1,211.17	1,500.00	19.26%
78150	VEHICLE REPAIRS	0.00	965.42	2,000.00	51.73%
78160	BUILDING REPAIRS & MAINTENANCE	0.00	0.00	1,000.00	100.00%
78170	SECURITY SYSTEM	0.00	1,355.69	500.00	(171.14)%
78190	MATERIALS, SUPPLIES & EQUIPMEN	139.91	4,864.76	14,000.00	65.25%
78200	EQUIPMENT REPAIRS & MAINTENANC	0.00	145.00	1,000.00	85.50%
79100	WATER LAB FEES	560.00	4,098.00	3,500.00	(17.09)%
79120	WATER PLANT CHEMICALS	0.00	5,806.89	7,500.00	22.57%
79130	WATER LINE HOOK-UPS	0.00	0.00	1,000.00	100.00%
79150	WATER LINE REPAIR	4,477.23	16,944.11	15,000.00	(12.96)%
79160	WATER PLANT REPAIR	415.37	71,847.23	8,000.00	(798.09)%
90000	Capital Reserves	0.00	0.00	15,000.00	100.00%

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
601 - Water
From 6/1/2017 Through 6/30/2017

	Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
Total Expense	<u>20,265.70</u>	<u>299,527.76</u>	<u>307,075.00</u>	<u>2.46%</u>
Net Income	<u>6,767.45</u>	<u>28,821.94</u>	<u>6,925.00</u>	<u>316.20%</u>

City of Trinidad
Statement of Revenues and Expenditures - Monthly Reports
701 - Cemetery
From 6/1/2017 Through 6/30/2017

		Current Period Actual	Current Year Actual	Total Budget - Original	% of Budget
	Revenue				
58100	CEMETERY PLOT SALES	0.00	5,655.00	9,500.00	(40.47)%
58150	Cemetery Plot Refunds	0.00	(1,410.00)	0.00	0.00%
	Total Revenue	0.00	4,245.00	9,500.00	(55.32)%
	Expense				
61000	EMPLOYEE GROSS WAGE	1,110.86	13,742.28	13,291.00	(3.40)%
65100	DEFERRED RETIREMENT	133.28	1,655.85	1,718.00	3.62%
65200	MEDICAL INSURANCE AND EXPENSE	510.88	5,991.57	7,344.00	18.42%
65250	Health Savings Program	4.35	59.20	0.00	0.00%
65300	WORKMEN'S COMP INSURANCE	0.00	0.00	429.00	100.00%
65600	PAYROLL TAX	95.19	1,181.98	1,227.00	3.67%
75180	UTILITIES	44.13	624.02	750.00	16.80%
78190	MATERIALS, SUPPLIES & EQUIPMEN	0.00	26.02	500.00	94.80%
	Total Expense	1,898.69	23,280.92	25,259.00	7.83%
	Net Income	(1,898.69)	(19,035.92)	(15,759.00)	20.79%



CONSENT AGENDA ITEM 2

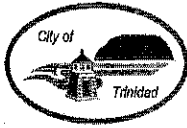
SUPPORTING DOCUMENTATION FOLLOWS WITH: 1 PAGES

2. Law Enforcement Activity Report for July

**ACTIVITY REPORT
TRINIDAD
DEPUTY LUKE MATHIESON**

07/01/2014- 07/31/2014

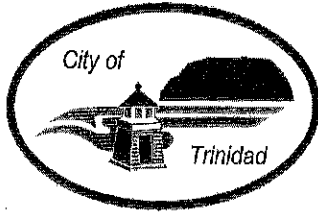
- Regular patrol at Hidden Creek. Continuing to address the problems within the park.
- Responded to noise complaints at Ocean Grove, working with code enforcement to address issues.
- Worked with casino regarding ongoing issues and locating/arresting wanted persons.
- Conducted regular patrols for subject(s) sleeping at night outside of the library.
- Numerous vehicles stops and citizen contacts.
- Towed two vehicles blocking Anderson Lane at Patrick's Point Drive
- Investigated a credit card fraud at Cher Ae Heights Casino, investigation ongoing
- Investigated a burglary on Stumptown Road, suspect identified and warrant issued.
- Vehicle burglary at Seaview Cabins, No Suspect information.
- Conducted a vehicle investigation at 400 Patrick's Point Drive, lead to location of a wanted parole, arrest made.
- Stolen vehicle recovery at McKinleyville Airport, possible suspect information from Trinidad area
- Black Bear was struck by a car at Hwy 101 just south of Trinidad. Bear was severely injured and was put down to prevent prolonged suffering.
- Report of a physical fight at the north end of Patrick's Point Drive in a vehicle, suspects threw an orange at my patrol vehicle as they drove through Trinidad. One arrest made and the involved vehicle was towed.
- Traffic stop at Main and Scenic, driver had suspended license, had warrants, and was in possession of a methamphetamine, one arrest made and vehicle towed.
- Traffic stop at Trinidad water treatment plant, vehicle was searched and methamphetamine was located, citation issued.
- Petty theft suspect located, located stolen property from Chevron and Murphy's, one arrest made
- Vehicle investigation at Luffenholtz County Park, parole located with methamphetamine and in violation of a restraining order, one arrest made
- Vehicle investigation at Big Lagoon County Park, stolen property recovered from three separate burglaries from Trinidad area. Two arrests made.



CONSENT AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 5 PAGES

3. Staff Activity Report



Dwight Miller, Mayor
Dan Berman, City Manager

STAFF ACTIVITIES REPORT

July 2017

City Administration:

Law Enforcement Services.

Deputy Mathieson's July Report is attached separately.

Measure Z funds for the 2017 fiscal year have been received, and Staff's application for Measure Z funds for 2018 has been approved for funding by the Board of Supervisors in the amount of \$75,000. Staff are working with the Sheriff's Office and County to finalize the new contract as approved by the Council. The Sheriff's Office expects that a dedicated half time deputy will be available starting in October 2017. The new contract with the Sheriff's Office is in final form awaiting all signatures, and a more detailed daily log system is now in place for both Deputy Mathieson and all extra shift officers.

2017-18 Budget Process - approved

Fiscal Reserves Policy - approved

Trinidad Rancheria EA for the Harbor Property

This comment period is closed. The City and multiple other agencies and individuals submitted comment letters and are awaiting responses.

STR Ordinance

The City's STR Ordinance was certified by the Coastal Commission in June and is now in effect. Existing permits are in effect through September, and Staff are preparing guidance and new application materials.

Tsurai Study Area Settlement and Land Transfer.

The Coastal Conservancy's approval is required for the land transfer to go forward. There are four party discussions underway to try and meet their requests for that approval. The draft settlement (as conditionally approved by Council in December 2016) has not been signed by either TAS or the City. Since approving that settlement, the City and TAS received notice from the Coastal Conservancy that in keeping with an earlier legal settlement, specific conditions beyond those in the draft settlement are required.

Auditor recommendations for non-interest bearing cash accounts.

Staff have moved some funds to LAIF, and are working with the County Treasurer to move a significant portion of our checking account balance to the County's investment

pool. Other options were explored with Tri-Counties bank, but did not exceed the County investment pool returns.

Planning

General Plan/LCP Update- Planning Commission has continued to hold extra meetings to review General Plan Elements/Chapters. Although the Planning Commission is still somewhat behind the ambitious schedule presented in the February memo, they have now reviewed the entire draft. Now staff needs to update the older elements with current information and the Planning Commission's input prior to it going back to them. Staff also needs to work with the Tribes to get their input on the entire general plan and to finalize the draft Cultural Element. In the meantime, the City has not been assigned a new local Coastal Commission staff contact to work with on the LCP update/grant. We need to get Coastal Commission staff input soon, and so City staff have been trying to get that moving. The Coastal Commission has approved a supplemental \$50,000 grant for specific studies needed for the LCP update.

View Restoration Permit process for Van Wycke St.

The applicants are working on obtaining a more detailed arborist report and pruning plan. However, the property on which the vegetation is located is for sale. Staff is hopeful that the applicants can start negotiations with the new owner that would lead to a mutually agreeable vegetation management plan and reduce or eliminate the need for further City involvement. The arborist was very busy in the Spring, which, along with the sale, has slowed down the process.

CalFire Water Line Extension

There were no requests for Tribal Consultation on this General Plan / LCP amendment. The amendment is needed in order to allow extension of City water to the Fire Station parcel, which is outside the City's approved Water Service Area. The amendment was scheduled to be heard by the Planning Commission on July 19, but there was not a quorum. If approved by the Commission, it will then go to the City Council for approval in August. The County is concurrently processing a similar amendment. Both amendments will go to the Coastal Commission for certification. Since Coastal Commission staff have been involved in drafting the LCP amendments, that is not expected to be a difficult process. Once the LCP amendments are certified, CAL FIRE can apply to the City (and County) for the CDP and other necessary permits for the physical construction of the water line.

WATER SYSTEM

Install Streamflow Monitoring on Luffenholtz Creek (Water Fund)

This is under way, with flow monitoring being conducted through the summer to calibrate the automated monitor.

Resolving Title at Water Plant The Water Plant was built on the old County road right of way, and that has never been cleaned up. The County has indicated they are open to helping us resolve this.

Asset Management System –New Asset Management software is configured and installed at the Water Plant, and is already populated with data about many key components and maintenance of the Water Plant. Water Plant staff has completed remote training on use of the asset management system, the mobile work orders to be used in the field, and the water quality compliance reporting module. The program is up and running and staff is now using this for the maintenance scheduling and recordkeeping. The next step will be using the water quality module to complete the next round of water quality reporting for the State and the annual Consumer Confidence Report.

Capital Improvement Program (CIP) – The Asset Management Software will help staff develop long range plans for future replacement of critical assets and to prioritize our long term maintenance and replacement efforts.

Water Filter Replacements – (Water Fund) – This emergency action is complete. The three main polishing filter trains at the Water Plant are all new (two are brand new, one is two years old) and working well.

Water accountability – Through various means, such as, aged meter replacement, identifying and addressing leaks, accounting for plant process water, and metering previously un-metered services staff continues to audit true water loss. Recently staff have identified and fixed several leaks in the distribution system. Staff have also identified numerous leaks on the property owners side and coordinated with the appropriate party to facilitate the necessary repairs.

Operator certification – Recently staff members through California Dept. of Public Health examinations have achieved higher levels of certification in both water treatment and distribution system operation.

Water Treatment Plant SCADA System - Quarterly water treatment plant and distribution system alarming and notifications systems have been tested, verified and improved. All system alarms are functioning optimally. By doing so staff is continually optimizing the operation of the water system.

Water Distribution System - Two pressure reducing valves which are critical components that regulate water system pressures in the lower part of town have been rebuilt and are functioning properly.

PUBLIC WORKS

Ocean St. Right of Way

Staff are working with contractors on revised costs for the solution adopted by the Council in late July, including road striping.

Memorial Light House and Edwards St Slide The initial site response is complete, including removal of the concrete ramp and old fencing, and pulling back the parking lot. Four boreholes have been drilled to establish depth to bedrock and soil profiles. Two of them have monitoring devices installed to measure ground movement at depth. This work is all included in our application for Disaster Relief Funding. PARSAC grant funding of \$20,000 has been successfully applied for to support these efforts. Staff are working with FEMA/OES and are hopeful that this project will qualify, which would mean state and federal funding would cover ~90% of costs to restore and stabilize the site. An updated assessment of the risk and potential solution will be coming to Council at the July 26th meeting.

Town Hall Improvements. Scott Baker is assisting the city with prioritizing the remaining ADA improvements, including parking and the water fountain.

Trails Committee. The Trails Committee has been formed and begun meeting.

Storm Damage Repairs –The storm drains off Scenic Drive just past the entrance to the Saunder's shopping complex that became disconnected in this winter's storms have been repaired. This was done as emergency work due to the threat to Scenic Drive. This is one of the projects for which staff have applied for Disaster Relief funding.

OWTS Permits Staff and the City Planner met in April to review the OWTS process and develop a workplan for getting OWTS permits done for the whole City. Staff are looking at how to spread the workload for this project across more people so it is not all on the City Planner. The City Planner is working on a step-by-step guide and compiling all the information needed to allow other staff to complete at least parts of the OWTS permits.

Firehouse Expansion – was funded by Council from City Reserves and is underway.

GRANTS —

Van Wycke Trail – (Grant Funded) – City Planner is working on the CEQA document

Clean Beaches Initiative OWTS Repair/Replacement Grant – The first round of repairs have been permitted and are being put out to bid as weather allows. Another round of outreach is underway to invite OWTS owners in the priority areas of Parker, Luffenholtz and Joland Creeks to get their systems inspected and, if their system needs repairs, to apply to the Clean Beaches OWTS program for funding assistance.

ASBS Storm Water Management Improvement Project – The State Water Resources Control Board awarded the City approximately \$4 million in Prop 1 grant funds through the Storm Water Grant Program. is in the process of applying for additional grant and/or loan funding to meet the approximately \$450,000 grant match requirements.

Ocean Protection Council funded Citywide LID Planning and Construction Project
An update on this project will be presented at the July 26th meeting.

BUILDING DEPARTMENT

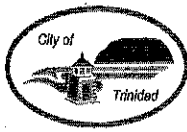
Complaints regarding the former Church at the base of Westhaven Dr. continue to be received and a letter requiring an inspection and updates from the property owner has been sent out. An inspection was conducted on May 5th and the Building Inspector is requiring all items identified to be addressed.

Alley widths and parking issues were reviewed with the Building Inspector, staff, and Council members. Staff are soliciting Calfire input, and considering how to ensure the alleys remain clear for emergency vehicles.

A final warning letter requiring action regarding unpermitted work (a carport) on Berry Rd. was issued.

Routine review of plans and specs for construction in town is ongoing.

The Building Inspector is assisting in oversight of the Fire House Expansion.



CONSENT AGENDA ITEM 4

SUPPORTING DOCUMENTATION FOLLOWS WITH: 6 PAGES

4. Letter Authorizing removal of Alder Tree in Van Wycke St. Right-of-Way.

CONSENT AGENDA ITEM

Date: August 9, 2017

Item: Letter authorizing tree removal in Van Wycke St. right of way

Summary and Recommendation:

Two clumps of alder trees growing in the Van Wycke St. Right of Way are impacting the neighbor's views. This area is within the City's Viewshed and Vegetation Ordinance. The neighbors have asked the City to address the view impacts, and offered their assistance. The City has requested and received (attached) a survey map verifying the location of the trees on the street right of way, and a letter from an engineering geologist stating that removal will have no significant impact on bluff stability. The trees are below the size (12 inch diameter) that requires a use permit for removal. The trees are likely to be removed in any case as part of the Van Wycke Trail project.

City staff have drafted a letter to the neighboring property owners (attached) that would authorize them to go ahead with tree removal, with some specific conditions. This is within staff's discretionary authority, but given the sensitivity of tree removal and viewshed protection issues, staff chose to place it on consent to provide the public a chance to comment, and to provide the Council the option to consider the matter further.

Staff recommends the Council:

Authorize staff to send the attached letter regarding alder tree removal for viewshed protection in the Van Wycke Street Right of Way

Attachments:

1. SHN letter regarding slope stability impacts
2. Survey work map indicating alder locations
3. Draft City Letter authorizing removal with conditions.

CITY OF TRINIDAD

P.O. Box 390
409 Trinity Street
Trinidad, CA 95570
(707) 877-0223

Dwight Miller, Mayor



August 4, 2017

Marc Gottschalk
(address)

RE: Viewshed Protection and Alder trees

Dear Marc,

Thank you for your patience and cooperation in working with the City regarding the alder trees impacting your views and those of your neighbors. The survey you provided from Mike O'Hern confirms their location on the Street right of way, and the geology letter addresses the slope stability issues we have discussed.

The City of Trinidad, by this letter, is authorizing you to go forward with hiring a professional tree service to remove the two clumps of alders impacting your view, subject to the following conditions:

1. An onsite meeting with City staff and the tree service is required prior to the commencement of work to review these conditions, and confirm the specific trees.
2. No ground disturbance is allowed.
3. The tree service shall remove all cut material and dispose of it properly off site.
4. Only trees smaller than 12 inches in diameter at breast height may be removed.
5. The City is not approving access or trespass onto adjacent private property.
6. This approval is specific to the two clumps of alders on the City right of way identified in the O'Hern survey and the SHN geology letter.

Please let me know if you have any questions.

Sincerely,

Daniel Berman
City Manager



Reference: 017029

June 19, 2017

Rachel Duclos
Marc Gottschalk
260 Dedalera Drive
Portola Valley, CA 94028

Subject: Evaluation of Potential Impacts to Bluff Stability Due to Removal or Management of Alder Trees, 807 Edwards Avenue, Trinidad, California

Rachel and Marc:

This letter provides the results of our recent site visit to 807 Edwards Avenue in Trinidad, California. The purpose of our visit was to evaluate the potential impacts to bluff stability that may result from the removal or management of alder trees that are growing on the bluff face along the seaward margin of the subject property. We understand that an ongoing discussion is occurring amongst neighbors regarding the appropriateness of management of the alder trees, some of which are impacting the view shed of homes along Edwards Avenue. The scope of our current investigation included reconnaissance of the site and vicinity, interpretation of relevant aerial photographs, and preparation of this letter.

The alder trees that are the subject of this report are approximately identified on the attached aerial photograph (Attachment A) as the two circled areas at the top right of the image. We understand that the majority of those alders are on land owned by the City of Trinidad (the Van Wycke Street right-of-way) as shown on the attached survey (Attachment B).

The existing coastal bluff bordering the property is an unstable slope that is actively failing onto the adjacent beach. The geology of Trinidad consists of a late Pleistocene age marine terrace surface, upon which the town is built, and the underlying bedrock unit, the regional Franciscan Complex. In the Trinidad area, the Franciscan bedrock consists of tectonic mélangé, a highly deformed by-product of millions of years of crustal subduction. The material consists of a chaotic mixture of rootless hard rock blocks (of varying sizes, up to and including Trinidad Head), entrained in a sheared, clayey matrix (locally referred to as "blue goo" due to its very low strength and tendency to deform by means of earthflow). The localized stability of any portion of coastal bluff in the Trinidad area is directly dependant on the presence or absence of rock blocks. That is, in the absence of rock blocks, the mélangé material is of very low strength, and is highly susceptible to flow-type failures. This is especially true when the bluff toe is eroded by waves, which typically triggers renewed earthflow movement on the overlying bluff face.

Reconnaissance at the site indicates that the bluff directly seaward of 807 Edwards is actively flowing toward the beach. There is ample evidence on the beach of low strength Franciscan mélangé oozing onto the beach at the toes of active earthflows. Alder trees on the slope are being actively transported to the beach, where they topple onto the sand as their modest root balls are

exposed. It is apparent (based on the relations visible on the beach) that the depth of sliding is far greater than the penetration of roots associated with these alder trees. The trees appear to have negligible, if any, effect on the stability of the bluff; they appear just to be rafting along with the flowing ground.

Because of the unstable nature of the ground on the bluff, most of the alder trees are small and relatively young. At the time of our site visit, a small alder had recently toppled over just below the site. The single exception is a larger alder tree just east of the site that is growing on top of a rock block (a relatively stable location on the otherwise unstable bluff face).

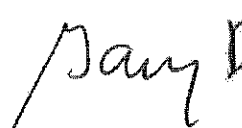
The alder trees on the bluff face are associated with shallow roots, and they are growing on a deep-seated earthflow (or in the case of the larger alder, on top of a rock block), therefore they are having a negligible effect on the stability of the bluff. As such, we conclude that management (trimming) or removal of individual alder trees will have a negligible, if any, impact on the bluff. This conclusion applies to trees growing on the bluff face seaward of 807 Edwards Avenue. It does not encompass trees elsewhere on the bluff; specifically near the Fulkerson residence, which is situated on the bluff crest. We have not evaluated trees near the Fulkerson residence on the top of the bluff, but we expect that some of these may be in locations that are relevant to the integrity of the bluff crest.

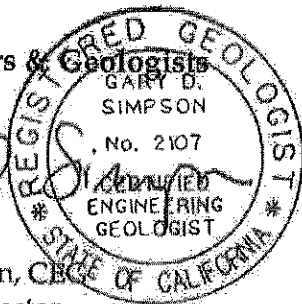
In conclusion, we find no geologic evidence to suggest that removal or management of the alder trees on the bluff face seaward of 807 Edwards Avenue would have any significant impact on the coastal bluff adjacent to the site.

We hope that this letter provides the information that you need at this time. If you have questions, or require clarification of the information presented herein, please call me at 441-8855. We appreciate the opportunity to assist in this important matter.

Respectfully,

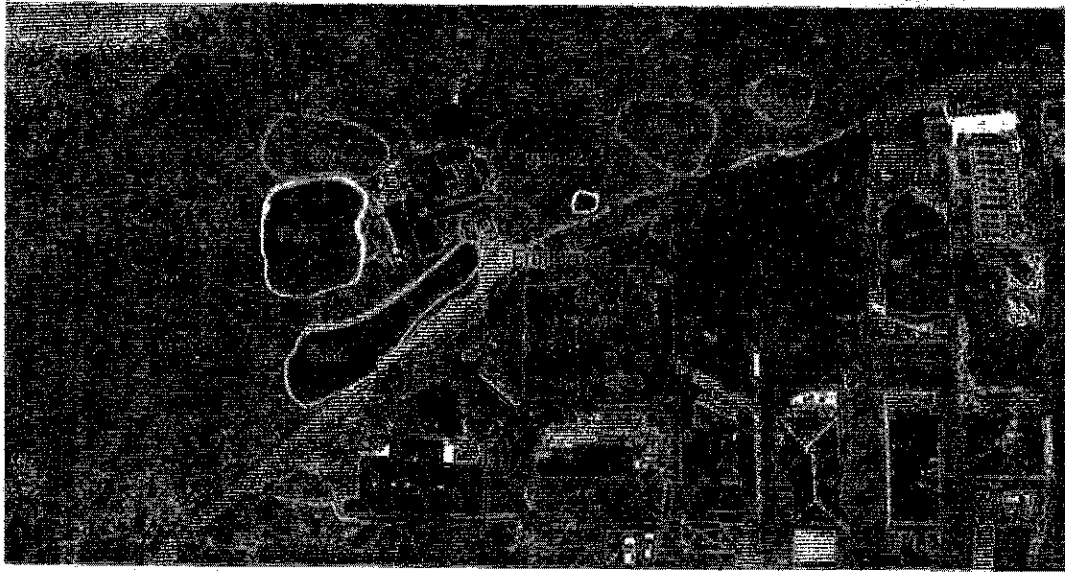
SHN Engineers & Geologists


Gary D. Simpson, CEO
Geosciences Director



GDS:lms

ATTACHMENT A



- From Van Wycke St. view easement report prepared by Trinidad Tree Service dated November 16, 2016

PRELIMINARY

Abstract

ਦਰਖਾਸਤ

FOR
MARC GOTTSCHALK
& RACHEL DUCLOS

SECTION 15-A-2022, THE VILLAGE OF NEWTON
IN
ATTENTION THE CITY OF NEWTON

9

FLUMMELT COUNTY

STATE OF CALIFORNIA

RECORDS MANAGER

EUREKA, CALIFORNIA,

Figure 1 is a line graph showing the percentage of respondents who believe that the use of force is justified in various circumstances. The x-axis represents the percentage of respondents who believe that the use of force is justified (0% to 100%). The y-axis represents the percentage of respondents who believe that the use of force is justified (0% to 100%). The graph shows that the majority of respondents believe that the use of force is justified in all circumstances, with the highest percentage of respondents (around 80%) believing that the use of force is justified in all circumstances.



DISCUSSION AGENDA ITEM 1

SUPPORTING DOCUMENTATION FOLLOWS WITH: 3 PAGES

1. Discussion/Decision regarding Removal of John Hedrick from the Trinidad Planning Commission

DISCUSSION/ACTION AGENDA ITEM

Wednesday, August 9, 2017

Item: Consideration of removal of Planning Commissioner Hedrick

Background: The City Council appoints Planning Commissioners, and has the power to remove them from office. The City has received a complaint regarding the behavior of Commissioner Hedrick (complaint attached) where as part of a minor dispute unrelated to City business, Commissioner Hedrick used his role and authority as a Planning Commissioner as an explicit threat, suggesting that the other party would have difficulty getting fair treatment from the Planning Commission because of their dispute.

Staff sees this as an egregious violation of the City's Code of Conduct for appointed and elected officials. Council members have encouraged staff to place this item on the agenda for discussion and possible removal of Commissioner Hedrick from the Planning Commission.

Staff recommendation

Consider removal of Commissioner Hedrick from the Planning Commission

Attachments:

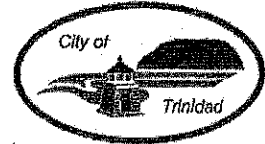
Complaint

RECEIVED

JUN 09 '17

CITY OF TRINIDAD
P.O. BOX 390
TRINIDAD, CA 95570

CITY OF TRINIDAD



CITIZEN COMPLAINT FORM

DATE:

6/5/17

TIME:

10 AM

SUBJECT OF COMPLAINT:

John Hedrick

DETAILS OF COMPLAINT:

On Sunday June 4th John Hedrick came to Trinidad Artisans MKT. uninvited without consent to sell pies. I explained why he could not sell at market for a variety of reasons including insurance, food safety compliance etc. In his refusal to leave I chose to let it go as the market ends at 3pm.

*** OPTIONAL INFORMATION ***

* see attachment

NAME:

Penny Gunn

TELEPHONE:

(707) 834-8720

ADDRESS:

Trinidad

EMAIL:

SIGNATURE:

Penny Gunn

REPLY REQUESTED:

☒ YES

☐ NO

NOTE: INFORMATION CONTAINED IN THIS FORM MAY BE SUBJECT TO REVIEW THROUGH THE PUBLIC RECORDS ACT

*** OFFICIAL USE ONLY ***

DATE & TIME COMPLAINT RECEIVED:

06/09/17

COMPLAINT #

COMPLAINT RECEIVED BY:

CABE ADAMS,

☒ IN PERSON

☐ MAIL

☐ EMAIL

☐ TELEPHONE

ACTION TAKEN:

CITY CLERK
DISTRIUTED COPIES TO CITYMANAGER & COUNCIL MEMBERS.

FILED ORIGINAL W/ COMPLAINT FILE & CD CUTHBERTSON FOR THE RECORDS.

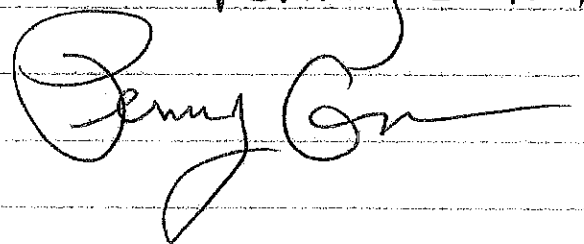
*

at the end of market I informed him again of rules and regulations and to please not return. All was presented in a diplomatic fashion. He then stated "Do you even know who I am?" I replied no. He then stated, "I am the planning commissioner for the City of Trinidad and if you ever want a building permit or an upgrade good luck with that."

At that point I felt threatened. I informed him of his negligence of laws in general which he should already know. He could have jeopardized my business, murphys and saunders trust. I believe he should not be a planning commissioner. He is unreasonable, unkind, unstable and a threat to the integrity of this community.

Sincerely,

Penny Gunn





DISCUSSION AGENDA ITEM 2

SUPPORTING DOCUMENTATION FOLLOWS WITH: 7 PAGES

2. Discussion/Decision regarding Allocation of Capital Reserve Funds for priority ADA projects.

ACTION AGENDA ITEM

Wednesday, August 9, 2017

Item: Allocate Reserve Funds for Americans with Disabilities Act Compliance Work

Summary:

The City has a list of improvements needed to Town Hall for ADA compliance, including parking, replacing the water fountain, door thresholds, and signage. This year's budget includes funding for a few of the smaller projects, but will not support full implementation of the Town Hall ADA projects. Staff are proposing the Council allocate up to \$35,000 from the Capital Assets Reserve Fund for ADA compliance projects at Town Hall.

Staff Recommendation:

Approve transfer of up to \$35,000 from Capital Assets Reserve to the 2017-18 Public Works budget for Town Hall ADA projects

Provide direction on priority projects. Direct Staff to return with regular updates on project costs, design details, and implementation progress.

Background:

The City had ADA Access Surveys conducted in 2013 for Town Hall, the Memorial Lighthouse, and curb ramps and sidewalks throughout the City. All three Surveys identified many items that are not compliant with the ADA. Summary findings from the Town Hall survey are attached.

Since those assessments, the City has focused ADA efforts on improvements to Town Hall. New railings have been added to the front steps and the side entrance. New signage has been installed at multiple locations. New wider double doors have been added at the exterior side entrance, and the interior entrance to the Main Hall.

However a number of ADA compliance issues remain, and many are quite challenging due to the underlying age and design of Town Hall. The labelled ADA parking space in front of the Hall is not fully compliant. The two front doors – to the Clerk's Office and the Civic Club Room, are not compliant, although access is possible to both through the side entrance.

The City is also awaiting guidance from a County hired consultant regarding ADA improvements to the Library entrance.

Staff's priority ADA projects for 2017-18 (if Reserve Funding is approved)

First Priority:

ADA Parking Space in front of the Clerk's Office – Cost Estimate: \$25,000 (based on prior bids)

The City received bids for this in 2015, but the bids were in the \$25,000 range and we only had \$10,000 available so we did not go forward. Staff will start with a review of the design options in search of a less expensive solution.

Replacement of Foyer Drinking Fountain:

Rough Estimate - \$2,500

Interior ADA Signage:

Estimate \$500

Push-button operation for Main Hall Exterior Doors* Estimate needed

*(Note – this is not required under ADA, but has been requested by public and recommended by City Attorney)

Secondary Priorities

East Emergency Exit

Design and Estimate needed

Thresholds for Clerk Office and Civic Club doors

Design and Estimate needed.

The majority of the funds will be utilized for the parking space. Staff will return to Council with additional design details and costs before implementing the projects (with the exception of the interior signage).

Fiscal Impacts:

The Capital Asset and Special Project Reserve fund has a balance of \$350,000. This proposed allocation, if fully utilized, would reduce that total by \$35,000 to \$315,000.

ADA compliance is legally mandated, and failure to do so poses ongoing legal and fiscal liability for the City. Having these ADA Surveys, and being able to show steady progress towards addressing the issues identified is a key step in defending ourselves against ADA lawsuits.

Alternatives:

1. Within the existing approved budget, the City could proceed with the water fountain, signage, and generating designs and cost estimates for the remaining interior projects. The parking spot would not be addressed. The push-button doors might be feasible, depending on final costs.
2. Council could wait to allocate reserve funds until more detailed individual designs and cost estimates are generated. (Staff's current recommendation would approve the use of the Reserve Funds now, but the more detailed designs and costs will still come back to Council as the projects are developed.)

Staff Recommendation:

Approve transfer of up to \$35,000 from Capital Assets Reserve to the 2017-18 Public Works budget for ADA compliance projects

Provide direction on priority projects. Direct Staff to return with regular updates on project costs, design details, and implementation progress.

AMERICANS WITH DISABILITIES ACT COMPLIANCE SURVEY FOR THE CITY OF TRINIDAD

With the passage of the Americans with Disabilities Act in 1990, access to activities that most people take for granted is now available to the disabled.

Even though people with disabilities may gain access to buildings, once inside they may find they are excluded from basic needs, such as restrooms, drinking fountains, and circulation within the building. The ADA makes access to buildings and related activities used by the public a civil right.

With the ADA and related accessibility codes, the design of facilities to meet the needs of the disabled will make in time "public places" accessible to all members of the community. Places and activities where they can work, relax, and socialize.

This ADA survey will bring to the attention of the City of Trinidad what access barriers exist. It is the first step in eliminating these barriers, thus making the City accessible to all members of the community.

Wheelchair access is not the only factor to consider. There are other impairments such as blindness, hearing loss, balance and stamina problems. When removing barriers and providing access, all these must be considered.

This compliance survey will include walks, curb ramps, and other circulation measures within the City's right of way. Also included in the survey are the Town Hall and The Memorial Lighthouse. The Town Hall since it is the center of the community activities. The Memorial Lighthouse since it is a site visited by many throughout the year.

The survey does not address the walks, curb ramps, and other work done under the Gateway Project in 2012.

The survey also excludes the Janis Court site work, the unisex single user restrooms at the Town Hall, and various trails throughout the City.

The Janis Court site work along with the Town Hall unisex restrooms have been previously inspected and approved. Since the trails are not improved, they were not addressed. The installation of viewing areas show casing the beauty of the area should be considered.

Submitted by Scott R. Baker

TRINIDAD TOWN HALL

Since the Town Hall is the center of the community's activities, it is imperative that it is accessible. The following is a list of deficiencies found. Refer to Photo.

1) Parking:

The existing disabled parking does not meet any of the ADA requirements. (#3)

2) Signage:

There is a lack of exterior signage directing people to the accessible entrance. (#7)

3) Walkway and Ramp:

The walkway from the sidewalk to the ramp does not comply with the ADA. (#4)

The ramp, although meeting the slope requirement, does not comply with an exterior ramp under the ADA. There is no bottom landing. The existing handrail does not comply. There is no curb at each edge of the ramp. (#5)

A walkway, constructed from the sidewalk in a straight grade to the top landing, would eliminate the need to construct a ramp complying with ADA. It would have to comply with the walkway requirements.

4) Guardrail:

The existing guardrail at the porch was constructed too low (42" min) and no intermediates were installed. (#6)

5) Steps at Front Entrance:

The risers are allowed to have a 3/8" difference in height. The bottom riser has a 3/4" to 1" difference in height. A two inch strip along the step nosings needs to be re-painted in a contrasting color. The

existing handrails do not comply with the ADA. Since the steps exceeds 88" in width, an intermediate handrail is required.

6) Doors at Entrance to Women's Club and City Clerk:
The ADA allows a maximum $\frac{1}{2}$ " threshold height. These two doors exceed the height allowed.

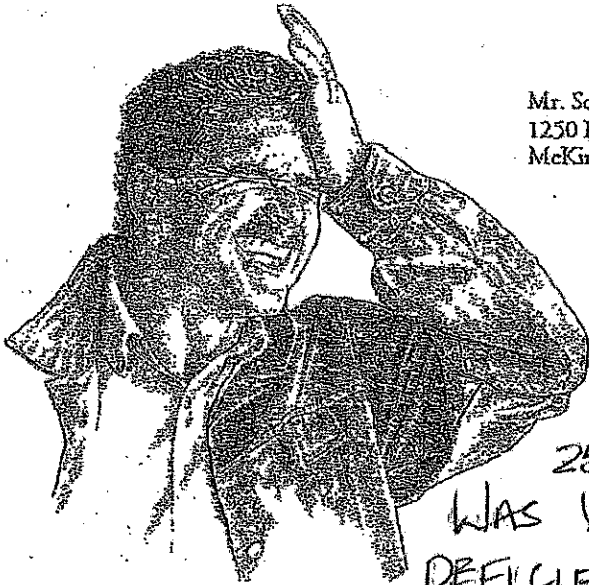
7) Double Door leading into Hall:
Each door in a double door installation is required to be a minimum of 36" in width. The existing pair of doors are 30" each in width.

8) Interior signage:
Directional signage is required to direct people to accessible restroom, rear exist, kitchen, etc.

9) Interior Doors:
Many of the doors within the Town Hall do not meet the wheelchair approach clearance for both the hinge side and strike edge. The interior doors have lever hardware.

10) East Emergency Exit Ramp:
* Exceeds 08.33% allowed (08.9%)
* Exterior landing does not meet minimum length of 72"
* Ramp surface is not slip-resistant

11) Drinking Fountain:
See checklist sheet #14



Mr. Scott Baker
1250 Ian St.
McKinleyville CA 95519

RECEIVED

FEB 24 '17

CITY OF TRINIDAD

FEB 22ND, 2017

DAN

THE ARTICLE IN THE JANUARY 25TH EDITION OF THE TIMES STANDARD WAS VERY MISLEADING. IT LISTED THE DEFICIENCIES THAT WERE FOUND AT THE TOWN HALL, BUT FAILED TO MENTION THE ONE THAT HAVE BEEN CORRECTED. THE CITY OF TRINIDAD SHOULD RECEIVE CREDIT WHEN CREDIT IS DUE. THE CITY HAS CORRECTED MORE ADA DEFICIENCIES, THAN LARGER CITIES THAT HAVE BIGGER BUDGETS.

CORRECTED

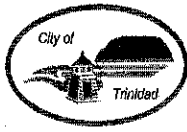
- WALKWAY & RAMP
- EXTERIOR SIGNAGE
- GUARDRAIL
- HANDRAILS AT FRONT STEPS
- DOUBLE DOORS LEADING INTO HALL

* RECOMMEND COMPLETING THESE ITEMS FIRST.

DEFICIENCIES

- * • PARKING
- THRESHOLDS AT FRONT ENTRANCE
- * • INTERIOR SIGNAGE
- EAST EMERGENCY EXIT
- * • DRINKING FOUNTAIN

Scott R. Baker
SRB



DISCUSSION AGENDA ITEM 3

SUPPORTING DOCUMENTATION FOLLOWS WITH: 14 PAGES

3. Direction regarding Ordinance development relating to Marijuana

ACTION AGENDA ITEM

Wednesday, August 9, 2017

Item: Consideration of Developing a City of Trinidad Marijuana Ordinance

Summary:

State Law, including Proposition 64, provides the current guidelines for medical and recreational marijuana use, cultivation, and sale. The City has some powers to set regulations in addition to the State laws. The attached documents from the League of California Cities provide much more detail, but the very brief summary is:

1. The City can impose reasonable regulations related to health and safety regarding indoor cultivation for personal use Timing - no deadline
2. The City can impose a ban, or other regulation, on commercial cultivation, personal outdoor cultivation, or retail sales of marijuana or marijuana products. Timing – if this is not in place prior to the State issuing permits for commercial sales or cultivation, then any permits issued would be valid. State permits are expected starting January 2018

Fast-tracking a basic ordinance would be an additional workload on the Planning Commission, City Attorney, and City Planner. In the absence of such an Ordinance, the state laws would govern what is allowable in Trinidad.

Staff Recommendation:

Provide direction to staff and planning commission regarding a possible marijuana regulation ordinance.

Attachments:

League of Cal Cities Materials re Prop 64

Memo

FAQ

January 9, 2017



Frequently Asked Questions (FAQs)

Adult Use of Marijuana Act¹

Proposition 64

Question #1: When does the AUMA take effect?

Answer: The AUMA took effect November 9, 2016, the day after the election. But note, the AUMA requires a state license to engage in commercial nonmedical marijuana activity. Licensing authorities are required to begin issuing licenses by January 1, 2018 and the League anticipates that the issuance of licenses will not occur much in advance of January 1, 2018. Thus, the AUMA provisions legalizing commercial nonmedical marijuana activity will not become operational until the state begins issuing licenses (likely in late-2017). The AUMA provisions legalizing personal use and cultivation of nonmedical marijuana took effect November 9, 2016.

Question #2: Can private individuals cultivate nonmedical marijuana at home beginning November 9, 2016?

Answer: Yes, within a private residence by a person 21 years and older for personal use. The AUMA provides that local governments can reasonably regulate, but cannot ban the personal indoor cultivation of up to six nonmedical marijuana plants per private residence. This includes cultivation in a greenhouse that is on the property of the residence but not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space. Because this activity is not subject to state licensing requirements, individuals may engage in personal indoor cultivation beginning November 9, 2016, unless a city enacts an ordinance imposing a reasonable regulatory scheme that would preclude them from doing so before complying with the city's regulatory requirements.

Local governments may regulate or ban all personal outdoor cultivation. However, the AUMA includes language purporting to repeal any ordinance that bans personal outdoor

¹ Please consult your City Attorney before taking action to implement the AUMA. The answers to these FAQs may be different in your city based upon your municipal code, regulations, and policies. The answers do not constitute legal advice from the League of California Cities®.

cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.

Question #3: Is there a limitation on the number of marijuana plants that can be cultivated within a single residence?

Answer: Yes. Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time. A "residence" is defined as a house, an apartment unit, a mobile home, or other similar dwelling. No matter how many persons over 21 years of age are living in a "residence," only 6 living plants may be cultivated at one time. (Health & Safety § 11362.2(b)(3).)

Question #4: Can a landlord ban the cultivation/smoking of marijuana on his or her property?

Answer: Yes. An individual or private entity may prohibit or restrict personal possession, smoking, and cultivation of marijuana on the individual's or entity's privately owned property. A state or local government agency also may prohibit or restrict such activities on property owned, leased, or occupied by the state or local government. (Health & Safety §§ 11362.45(g) and (h).)

Question # 5: Can a city ban personal indoor cultivation in all leased or multi-unit residences within the city?

Answer: No. A city cannot prohibit personal indoor cultivation of marijuana in all leased or multi-unit residences within the city. However, because cities may reasonably regulate personal indoor cultivation, a city might be able to condition permit approval for personal indoor cultivation in a leased residence on the applicant receiving permission from his or her landlord.

Question # 6: Does a city's ban on commercial cultivation, personal outdoor cultivation, or retail sales of marijuana or marijuana products make it ineligible for state grant monies for law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of Prop 64?

Answer: Yes. If a city bans commercial cultivation, or personal outdoor cultivation, or retail sales of marijuana or marijuana products, it is ineligible to receive state grant monies funded through the new state excise taxes that take effect on January 1, 2018. (Revenue and Taxation Code § 34019(e)(3)(D).)

Question #7: What does the AUMA say about possession, transporting, purchasing or giving away of non-medical marijuana?

Answer: A person 21 years of age or older may possess, process, transport, purchase or give away to persons 21 years of age or older not more than 28.5 grams of marijuana in the non-concentrated form and not more than 8 grams of marijuana in a concentrated

form including marijuana products. If the AUMA passes, these activities will be lawful under state law and cannot be prohibited under local law.

Question #8: Do cities that ban or regulate medical marijuana businesses need to update their ordinances to include nonmedical marijuana?

Answer: Yes. The AUMA prohibits state licensing authorities from issuing a license to a commercial nonmedical marijuana business if operation of the business violates a local ordinance of the jurisdiction in which the business will operate. This means that a city wishing to adopt business or land use regulations prohibiting or regulating commercial nonmedical marijuana businesses must adopt an ordinance prior to the date the state begins issuing licenses, which the League anticipates will be in late 2017.²

Question #9: Can cities be confident that a permissive zoning code, by itself, provides sufficient protection against nonmedical marijuana businesses setting up shop without local approval?

Answer: No. It is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning codes under the AUMA, because the AUMA does not contain the same protective language as the MMRSA with respect to permissive zoning. Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

Question #10: Are cities at risk of losing the opportunity to impose bans on personal outdoor cultivation if they don't act until after the November election?

Answer: No. A city may adopt an ordinance banning or regulating personal outdoor cultivation at any time.

Question #11: Are cities at risk of losing the opportunity to impose bans on nonmedical marijuana businesses, if they don't act until after the November election?

Answer: No. However, if a city does not adopt an ordinance expressly banning or regulating nonmedical marijuana businesses before the state begins issuing state licenses nonmedical businesses, a state-licensed nonmedical marijuana business will be able to operate within its jurisdiction without local permission or permitting. This is due to a provision in the AUMA that provides that state licenses cannot be issued where the activity would violate a local ordinance. If a jurisdiction has no ordinance regulating nonmedical marijuana businesses, then the local regulatory scheme is silent on that type of activity, and the state can unilaterally issue a license under terms fully compliant with the AUMA. Cities may adopt an ordinance expressly banning or regulating such operations after the state begins to issue licenses, but it will be difficult to terminate the state licensee's operations until the state license is up for renewal. Therefore, the best practice is to adopt an ordinance before the state begins issuing state licenses.

² Please see Question #8 regarding the use of public roads for transportation and delivery.

Question #12: Can cities ban deliveries under the AUMA?

Answer: Yes. Cities can ban deliveries within their territorial limits. However, cities cannot prevent the use of public roads for the delivery of marijuana. For example, if a licensed delivery company located in City A must travel on public roads through City B to make an authorized delivery in City C, City B cannot prohibit the licensed delivery company from travelling on public roads in City B to get to City C. In addition, cities may not prevent the use of public roads within its jurisdiction to transport nonmedical marijuana.

Question #13: What is the best way for cities to notify the state licensing agencies of their local ordinances that regulate and/or prohibit commercial non-medical marijuana activities within their jurisdictions?

Answer: Unless the state licensing agencies indicate otherwise, cities should mail copies of their local ordinances that regulate or prohibit commercial nonmedical marijuana activities within their jurisdictions to the Department of Consumer Affairs, the Department of Food and Agriculture, and the Department of Public Health. Cities should regularly check each Department's website to ensure that this practice complies with any regulations the Departments may pass regarding notice of local ordinances. In addition, Cities should ensure that any updates or amendments to local ordinances that regulate or prohibit commercial nonmedical marijuana activities are promptly submitted to each Department.

Question #14: What are the rules regarding taxation under the AUMA? Is it true that marijuana can no longer be subject to sales tax?

Answer: Under the AUMA, there is a 15% state excise tax on recreational marijuana, but medical marijuana is exempt from state and local sales tax altogether. The rationale is that marijuana consumed for truly medical purposes is no different from conventional pharmaceuticals, which are also exempt from federal, state, and local sales tax. However, other forms of excise tax may be levied on all marijuana, whether medical or recreational. For example, a cultivation tax, a manufacturing tax, or the most common, a business license tax may still be levied at the local level on any commercial marijuana activity. But note, because the AUMA levies a state excise tax of 15% on recreational marijuana, all local governments have reason to be concerned about the cumulative tax rate when local tax levies are added to that. For that reason, locals are encouraged to look at existing local taxes and to assess what marijuana-related revenue streams may be derived from those sources before levying additional taxes that are specific to marijuana.



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MEMORANDUM¹

To: League of California Cities' City Managers Department
League of California Cities' City Attorneys Department
From: League Staff
Date: September 26, 2016
Re: The Control, Regulate and Tax Adult Use of Marijuana Act

On November 8, 2016, the Control, Regulate, and Tax Adult Use of Marijuana Act ("AUMA" or "Act") will come before California voters as Proposition 64. If passed, the AUMA will legalize the nonmedical use of marijuana by persons 21 years of age and over, and the personal cultivation of up to six marijuana plants. In addition, the AUMA will create a state regulatory and licensing system governing the commercial cultivation, testing, and distribution of nonmedical marijuana, and the manufacturing of nonmedical marijuana products. The regulatory system governing these commercial marijuana activities largely mirrors the Medical Marijuana Regulation and Safety Act ("MMRSA"), but there are key differences. This memorandum will provide an overview of the AUMA, highlight the ways in which the AUMA differs from the MMRSA, and identify the issues that cities will need to take action on if the AUMA passes.

I. Overview of the AUMA

A. Personal Nonmedical Marijuana Use

The AUMA makes it legal for persons 21 years of age or older to: (1) smoke or ingest marijuana or marijuana products; (2) possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older, without any compensation, 28.5 grams of marijuana, or 8 grams of concentrated marijuana, including as contained in marijuana products; and (3) possess, plant, cultivate, harvest, dry or process up to six living marijuana plants for personal use.² The AUMA requires that marijuana in excess of 28.5 grams that is produced by plants kept pursuant to the personal cultivation provision of the Act be kept in a locked space on the grounds of a private residence that is not visible from a public place.³

Although persons 21 years of age or older may use and possess nonmedical marijuana under the Act, their ability to engage in these activities is not unfettered. The AUMA prohibits the smoking

¹ **DISCLAIMER:** These materials are not offered as or intended to be legal advice. Readers should seek the advice of an attorney when confronted with legal issues. Attorneys should perform an independent evaluation of the issues raised in these materials.

² Health & Saf. Code § 11362.2(a).

³ Health & Saf. Code § 11362.2(a)(2).

of marijuana: (1) in any public place, except where a local jurisdiction has authorized use on the premises of a retailer or microbusiness in accordance with Business and Professions Code section 26200; (2) where smoking tobacco is prohibited; (3) within 1,000 feet of a school, day care center, or youth center while children are present; and (3) while driving, or riding in the passenger seat of, any vehicle used for transportation.⁴ Moreover, individuals cannot possess marijuana on school grounds, in day care centers, or in youth centers while children are present, or possess an open container of marijuana or marijuana products while driving, operating, or riding in any vehicle used for transportation.⁵ The AUMA further provides that cities may prohibit possession and smoking in buildings owned, leased, or occupied by the city, and that employers, including cities, may maintain a drug and alcohol free workplace by prohibiting the use, consumption, possession, transfer, transportation, sale, display or growth of marijuana in the workplace.⁶

1. Personal Cultivation

The AUMA provides that local governments can reasonably regulate, but cannot ban, personal indoor cultivation of up to six living marijuana plants within the person's private residence.⁷ The Act defines private residence as "a house, an apartment unit, a mobile home, or other similar dwelling unit."⁸ This includes cultivation in a greenhouse on the same property as the residence that is not physically part of the home, as long as it is fully enclosed, secure, and not visible from a public space.⁹

The AUMA completely protects the ability of local governments to regulate, and to ban, personal outdoor cultivation operations.¹⁰ However, it purports to repeal any ordinance that bans outdoor cultivation upon the California Attorney General's determination that nonmedical use of marijuana is lawful under federal law.¹¹

B. Commercial Nonmedical Marijuana Activity

Under the AUMA, California will have a comprehensive state regulatory system for nonmedical marijuana that governs the industry from "seed to sale." The Bureau of Marijuana Control, currently the Bureau of Medical Cannabis Regulation, which is within the Department of Consumer Affairs, will have primary responsibility for administering and enforcing the AUMA.¹²

The AUMA divides state licensing and enforcement responsibilities among three agencies: (1) the Department of Consumer Affairs, which will issue licenses for marijuana the transportation,

⁴ Health & Saf. Code §§ 11362.3; 11362.4.

⁵ Health & Saf. Code §§ 11362.3(3), 11362.3(4).

⁶ Health & Saf. Code § 11362.45 (f)-(g).

⁷ Health & Saf. Code §§ 11362.1(a)(3), 11362.2.

⁸ Health & Saf. Code § 11362.2(5).

⁹ Health & Saf. Code § 11362.2(a)(2).

¹⁰ Health & Saf. Code § 11362.2(b)(3).

¹¹ Health & Saf. Code § 11362.2(b)(4).

¹² Bus. & Prof. Code § 26010.

storage, distribution, and sale of marijuana;¹³ (2) the Department of Food and Agriculture will issue marijuana cultivation licenses, which will administer the provisions of the AUMA related to the cultivation of marijuana;¹⁴ and (3) the Department of Public Health, which will issue licenses for marijuana manufacturers and testing laboratories.¹⁵ Each of these state licensing authorities is responsible for creating regulations governing their respective areas of responsibility, and must begin issuing licenses by January 1, 2018.¹⁶

A state marijuana license will be valid for one year.¹⁷ A separate state license is required for each commercial marijuana business location.¹⁸ With the exception of testing facilities, any person or entity licensed under the AUMA may apply for and be issued more than one type of state license.¹⁹

1. Local Control

All nonmedical marijuana businesses must have a state license.²⁰ A state license cannot issue to an applicant whose operations would violate the provisions of any local ordinance or regulation.²¹ However a state applicant need not provide documentation that the applicant has a local license or permit.

The AUMA does not limit the authority of a local jurisdiction to adopt and enforce local ordinances regulating or completely prohibiting state-licensed marijuana businesses.²² Local jurisdictions may establish “standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections that exceed state standards.”²³

2. Local Enforcement

Like the MMRSA, the AUMA establishes a dual enforcement scheme for commercial marijuana activities that violate either state or local laws. The state licensing authorities will enforce state statutes and regulations. State authorities can suspend or revoke state licenses,²⁴ pursue civil penalties against violating businesses in an amount equal to three times the applicable licensing fee per violation,²⁵ or may prosecute violators criminally.²⁶ Local authorities will be responsible

¹³ Bus. & Prof. Code § 26012(a)(1).

¹⁴ Bus. & Prof. Code § 26012(a)(2).

¹⁵ Bus. & Prof. Code § 26012(3).

¹⁶ Bus. & Prof. Code §§ 26012(c), 26013 (a).

¹⁷ Bus. & Prof. Code § 26050(c).

¹⁸ Bus. & Prof. Code § 26055(c).

¹⁹ Bus. & Prof. Code § 26053.

²⁰ Bus. & Prof. Code § 26038.)

²¹ Bus. & Prof. Code § 26055(e).

²² Bus. & Prof. Code § 26200(a). But see, Bus. & Prof. Code §§ 19340(f), 26080(b), 26090(c) [prohibiting cities from preventing the use of public roads to lawfully transport or deliver nonmedical marijuana].

²³ Bus. & Prof. Code § 26201.

²⁴ Bus. & Prof. Code § 2603.

²⁵ Bus. & Prof. Code § 26038(a)

²⁶ Bus. & Prof. Code § 26038(c).

for enforcing local ordinances and regulations.²⁷ For state-licensed facilities operating within a city, a city may have authority to enforce state law and regulations “if delegated the power to do so by the [B]ureau [of Marijuana Control] or a licensing authority.”²⁸

II. Key Differences Between the AUMA and MMRSA

A. Licensing

The MMRSA established dual licensing of medical marijuana businesses, requiring both local approval and a state license in order for a business to operate legally.²⁹ Specifically, the MMRSA requires applicants to provide the relevant state licensing entity with documentation proving their compliance with local ordinances and regulations.³⁰

The AUMA does not require an applicant to provide evidence of local permission prior to being issued a state license.³¹ Instead, the AUMA prohibits state licensing entities from approving licenses for activities that would violate local ordinances.³² Thus, state licensing officials bear the onus of evaluating local regulatory compliance.

Under this system, the AUMA allows a nonmedical marijuana business licensed by the state to operate within city limits unless the city’s municipal code prohibits the use. Cities that wish to regulate or prohibit nonmedical marijuana businesses will need to do so before the State begins issuing licenses, either by enacting a nonmedical marijuana ordinance/regulation or by amending an existing medical marijuana ordinance/regulation to include nonmedical marijuana within its scope.

B. License Revocation

Under the MMRSA, revocation of a local license or permit unilaterally terminates the ability of the medical marijuana business to operate in the jurisdiction issuing the permit, until such time as the local permitting entity reinstates it.³³

Under the AUMA, if a local jurisdiction revokes a local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction, the Bureau of Marijuana Control must initiate proceedings to determine whether the state license issued should be suspended or revoked within ten days of being notified by the local jurisdiction of the local revocation.³⁴ Note, however, that, even if the state license is not suspended or revoked immediately, the business cannot operate within the local jurisdiction once local revocation occurs.

²⁷ Bus. & Prof. Code § 26200 (b).

²⁸ Bus. & Prof. Code § 23202(a).

²⁹ Bus. & Prof. Code § 19320(b).

³⁰ Bus. & Prof. Code § 19322(a).

³¹ Bus. & Prof. Code § 26056.

³² Bus. & Prof. Code § 26055(e).

³³ Bus. & Prof. Code § 19320(d).

³⁴ Bus. & Prof. Code § 26200(c).

C. Personal, Indoor Cultivation

Under the MMRSA, local governments possess the power to regulate and completely ban personal, indoor cultivation.³⁵ Under the AUMA local governments can “reasonably regulate” indoor cultivation of up to six marijuana plants for personal use, but cannot ban it.³⁶

D. Personal Outdoor Cultivation

Under the MMRSA local governments can prohibit all outdoor cultivation. Under the AUMA local governments can prohibit all outdoor cultivation, until such time as the Attorney General determines that the use of nonmedical marijuana is lawful in the State of California under federal law.³⁷ Upon such determination, the AUMA purports to repeal all local bans on outdoor cultivation.³⁸

E. Amendment

Any portion of the MMRSA can be amended at any time, if there is sufficient political support within the Legislature for making substantive changes to the regulatory structure. Under some circumstances, an amendment to the MMRSA by the Legislature might arguably violate The Compassionate Use Act of 1996 (adopted by the voters as Proposition 215), which decriminalized the personal use of medical marijuana.³⁹

Under the AUMA, the Legislature may amend Sections 5 (relating to the use of medical marijuana for medical purposes) and 6 (relating to state licensing) and the provisions relating to penalties by majority vote. The Legislature may amend any other provision of the Act by a 2/3 vote. Any amendment must further the purposes and intent of the AUMA. The purpose and intent of the Act include allowing local governments to ban nonmedical marijuana businesses.

F. Taxation

The AUMA imposes new state taxes on medical and nonmedical marijuana in the following manner:

- Effective January 1, 2018, the AUMA imposes an excise tax at the rate of 15% of gross retail sales receipts.⁴⁰
 - This tax will be in addition to existing state and local sales tax.⁴¹ Given that state and local sales taxes can range from 7-10%, the combined excise tax + sales tax at the retail level could approach 25%;

³⁵ Health & Saf. Code § 11362.777(g); *Maral v. City of Live Oak* (2013) 221 Cal.App.4th 975, 984; *Kirby v. County of Fresno* (2015) 242 Cal.App.4th 940, 969-970.

³⁶ Bus. & Prof. Code § 11362.2(b)(1).

³⁷ Bus. & Prof. Code § 11362.2(b)(4).

³⁸ Bus. & Prof. Code § 11362.2(b)(4).

³⁹ Health & Saf. Code § 11362.5.

⁴⁰ Rev. & Tax Code § 34011(a).

- Effective January 1, 2018, the AUMA imposes a separate cultivation tax on all harvested marijuana as follows:⁴²
 - \$9.25 per dry-weight ounce on all marijuana flowers;
 - \$2.75 per dry-weight ounce on all marijuana leaves;
- The AUMA prohibits imposition of state and local sales taxes on medical marijuana.⁴³
- The AUMA exempts marijuana cultivated for personal use from taxation.⁴⁴

The AUMA does not pre-empt local taxation.⁴⁵ However, the AUMA's estimated cumulative tax rate of nearly 35% on the purchase of nonmedical marijuana has potentially troubling implications for local governments. A high state tax rate by itself may depress sales and stimulate the black market. Any local taxation of marijuana should be governed by an awareness that a high retail sales tax rate, imposed on an industry that, until recently, has not been regulated at all, might stimulate black market activity and compromise the anticipated yield of revenue. In order to avoid such a result, cities might consider imposing an excise tax on discrete commercial nonmedical marijuana activities rather than on retail sales. New taxes on marijuana require compliance with Proposition 218.

1. Allocation of State Tax Revenues

After repaying certain state agencies for marijuana regulatory costs not covered by license fees, and making certain grants to universities for research and development and the Governor's Office of Business and Economic Development, the AUMA distributes the remaining tax revenue as follows:

- 60% for youth programs, substance abuse education, prevention and treatment;
- 20% for environmental cleanup and remediation; and
- 20% for state and local programs that reduce DUI and grant programs designed to reduce negative health impacts resulting from marijuana legalization

G. Deliveries

Under the MMRSA, medical marijuana deliveries can only be made from a state-licensed dispensary in a city, county, or city and county that does not explicitly prohibit it by local ordinance.⁴⁶ A delivery person must carry a copy of the dispensary's state-issued license, a government ID, and a copy of the delivery request.⁴⁷ The patient or caregiver requesting the delivery must also maintain a copy of the delivery request.⁴⁸ Dispensaries and delivery people who comply with MMRSA are immune from prosecution for marijuana transportation.⁴⁹

⁴¹ Rev. & Tax Code § 34011(d).

⁴² Rev. & Tax Code § 34012.

⁴³ Rev. & Tax Code § 34011(g).

⁴⁴ Rev. & Tax Code § 34012(j).

⁴⁵ Rev. & Tax Code § 34021.

⁴⁶ Bus. & Prof. Code § 19340(a).

⁴⁷ Bus. & Prof. Code §§ 19340(b)(2), 19340(d).

⁴⁸ Bus. & Prof. Code § 19340(e).

⁴⁹ Bus. & Prof. Code § 19317(f).

Under the AUMA, deliveries can be made by a state-licensed retailer, microbusiness, or nonprofit unless they are prohibited by local ordinance.⁵⁰ Although the AUMA does require a customer requesting delivery to maintain a copy of the delivery request, there is no express requirement that delivery people carry or maintain any records.⁵¹ Moreover, unlike the MMRSA, the AUMA does not require that deliveries come *from* a dispensary. Instead, it states that “Deliveries, as defined in this division, may only be made *by* a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.”⁵² Thus, there is at least some question regarding whether deliveries may be made from non-retail locations by retail employees.

Under both the MMRSA and the AUMA, local jurisdictions can ban or regulate deliveries within their borders.⁵³ However, local jurisdictions cannot prevent a delivery service from using public roads to simply pass through its jurisdiction from a licensed dispensary to a delivery location outside of its boundaries.⁵⁴

III. Local Regulatory Options⁵⁵

The AUMA preserves the authority of a city to adopt business regulations and land use regulations for nonmedical marijuana activities.⁵⁶

A. Personal Marijuana Cultivation

Under the AUMA local governments can regulate or ban all personal, outdoor cultivation, until such time as the Attorney General determines that the use of nonmedical marijuana is lawful in the State of California under federal law. In addition, local governments can “reasonably regulate,” **but cannot ban**, personal, indoor cultivation. Nothing in the AUMA requires a city to enact an ordinance or regulation by a certain date. However, assuming that the AUMA passes, if a city does not have a ban or regulatory scheme governing personal, outdoor cultivation or a regulatory scheme governing personal, indoor cultivation in place before November 9, 2016, a person may legally engage in personal cultivation of up to six marijuana plants at his or her private residence.

⁵⁰ Bus. & Prof. Code §26090(a).

⁵¹ Bus. & Prof. Code §26090(b).

⁵² Bus. & Prof. Code § 26090(a).

⁵³ Bus. & Prof. Code §§ 19340(a), 19316(a), 26200.

⁵⁴ Bus. & Prof. Code §§ 19340(f), 26080(b), 26090(c).

⁵⁵ For a thorough discussion of the various marijuana regulatory options that a city may consider, see McEwen, *Medical Marijuana-Revisited After New State Laws* (Spring 2016) <<http://www.cacities.org/Resources-Documents/Member-Engagement/Professional-Departments/City-Attorneys/Library/2016/Spring-2016/5-2016-Spring-Medical-Marijuana-%E2%80%93Revisited-After>>. In addition, sample ordinances may be found on the League’s website, at: <http://www.cacities.org/Policy-Advocacy/Hot-Issues/Medical-Marijuana>. **But note:** the regulatory schemes discussed in the McEwen paper and posted on the League’s website pertain to medical marijuana businesses under the MMRSA and may need to be modified to comply with the requirements of the AUMA.

⁵⁶ Health & Saf. Code § 11362.2; Bus. & Prof. Code §§ 26201, 26200(a).

B. Nonmedical Marijuana Businesses

The AUMA recognizes a range of businesses, including dispensaries, cultivators, manufacturers, distributors, transporters, and testing laboratories. Cities may expressly ban, adopt business regulations, or adopt land use regulations pertaining to any or all of these businesses.

Again, the AUMA does not require a city to enact a regulatory scheme or ban by a certain date. However, assuming that the AUMA passes in November, if a city wishes to regulate or ban marijuana businesses before marijuana businesses may legally operate within the city, the regulations or ban will need to take effect before the state begins issuing nonmedical marijuana business licenses. The League anticipates that cities have until January 1, 2018 to enact bans or regulations relating to nonmedical marijuana businesses, because: (1) nonmedical marijuana businesses cannot operate in any city without a state license;⁵⁷ (2) the state licensing agencies in charge of implementing the AUMA have stated that they anticipate that they will not begin issuing licenses under the MMRSA until January 2018, and it is unlikely that said agencies will be able to begin issuing licenses under the AUMA before they begin issuing licenses under the MMRSA; and (3) the AUMA does not require state agencies to issue licenses until January 1, 2018.⁵⁸ It is not the League's position that state licensing agencies cannot issue licenses before January 1, 2018, just that it is unlikely that they will do so.

C. Caution Against Use of Permissive Zoning

Under a permissive zoning code, any use not enumerated in the code is presumptively prohibited, unless an authorized city official finds that the proposed use is substantially the same in character and intensity as those land uses listed in the code.⁵⁹ Although the MMRSA upheld a city's authority to rely on permissive zoning to prohibit medical marijuana land uses, it is unlikely that cities will succeed in arguing that nonmedical marijuana land uses are prohibited by permissive zoning under the AUMA. This is so because: (1) the statutory language in the AUMA regarding local control seems to anticipate that a city will adopt an ordinance explicitly prohibiting and/or regulating nonmedical marijuana businesses (rather than relying on the silence of its Code to argue for a prohibited use);⁶⁰ (2) the AUMA does not contain the same protective language as the

⁵⁷ Bus. & Prof. Code § 26038.

⁵⁸ Bus. & Prof. Code § 26012 (c).

⁵⁹ See *City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, 433-436. See also *County of Los Angeles v. Hill* (2011) 192 Cal.App.4th 861, 871 [holding that "medical marijuana dispensaries and pharmacies are not 'similarly situated' for public health and safety purposes"]; *City of Monterey v. Carrnshimba* (2013) 215 Cal.App.4th 1068, 1091 [holding that a medical marijuana dispensary was not substantially similar to the listed commercial use classifications for personal services, retail sales, pharmacies and medical supplies]; *County of Tulare v. Nunes* (2013) 215 Cal.App.4th 1188, 1205 [holding that a medical marijuana collective did not qualify as an "agricultural" land use because "marijuana is a controlled substance and is not treated as a mere crop or horticultural product under the law"].

⁶⁰ Bus. & Prof. Code § 26200 ["Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related

MMRSA with respect to permissive zoning;⁶¹ and (3) the AUMA explicitly designates nonmedical marijuana as an agricultural product—thus if a city’s permissive zoning code authorizes agricultural uses, the city may be precluded from arguing that marijuana is prohibited.⁶² Therefore, cities that wish to ban all or some nonmedical marijuana activities should adopt express prohibitions, even if they operate under a permissive zoning code.

IV. What actions need to be taken?

At this time city officials should: (1) review the city’s municipal code; (2) consider whether they wish to regulate the personal cultivation of nonmedical marijuana indoors; (3) consider whether they wish to regulate or ban the personal cultivation of nonmedical marijuana outdoors; (4) consider whether they wish to enact business regulations of nonmedical marijuana businesses; (5) consider whether they wish to enact land use regulations of nonmedical marijuana businesses; (6) consider whether they wish to enact local taxes on marijuana; and (7) comply with Proposition 218 if they decide to enact local taxes on marijuana.

Cities should prioritize considering or enacting ordinances regulating personal nonmedical marijuana cultivation, because it will be legal under state law on November 9, 2016 if the AUMA passes, whereas nonmedical marijuana businesses will not be able to operate lawfully until the state licensing system becomes operational (likely in late 2017). **Although cultivation for personal use will be legal as of November 9, 2016 if the AUMA is approved by voters, local governments will not lose any regulatory authority if they do not have an ordinance in place addressing personal cultivation before the election. Locals will retain the ability to regulate personal cultivation and to enact related ordinances at any time after the election. The only change the AUMA will make in this area is to prohibit local bans of indoor cultivation for personal use. No ordinance enacted prior to the election can prevent this change in the law.**

to reducing exposure to second hand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.”] (emphasis added).

⁶¹ Compare Health & Saf. Code § 11362.777(b)(3) [a “person or entity shall not submit an application for a state license . . . if the proposed cultivation of marijuana will violate the provisions of any local ordinance or regulation, or if medical marijuana is prohibited by the city, county, or city and county in which the cultivation is proposed to occur, either expressly or otherwise under principles of permissive zoning”] with Bus. & Prof Code § 26205(e) [“Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.”].

⁶² Bus. & Prof. Code § 26067(a).